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BEFORE THE ARIZONA CORPORATION COMMISSION

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Docket No. T-01954B-05-0852

In the Matter of the Request of Autotel for
Interconnection, Services and Network Elements
with Citizens Utilities Rural Company, Inc. and for
an Inquiry by the Arizona Corporation Commission
and Termination of the Exemption of Citizens
Utilities Rural Company, Inc. Pursuant to Section
252(f)(1)(B) of the Telecommunications Act of
1996.

AZ CORP COMMISSION
DOCUMENT CONTROL

**CITIZENS UTILITIES RURAL
COMPANY, INC.'S RESPONSE
BRIEF**

I. INTRODUCTION

On January 6, 2006, Citizens Utilities Rural Company, Inc. ("Citizens"), the Staff of the Arizona Corporation Commission ("Commission Staff") and Autotel filed Opening Briefs in the above-referenced docket, pursuant to the Procedural Order dated December 12, 2005. By the same Procedural Order of December 12, 2005, the parties and Commission Staff were ordered to file Response Briefs on or before January 27, 2006. Citizens hereby files this Response Brief addressing the two issues set forth in the Opening Brief of Autotel.

II. DISCUSSION

In its January 6th filing, Autotel responds to Issue No. 1 by suggesting that it is entitled to request and commence interconnection agreement negotiations with Citizens pursuant to 47 U.S.C. § 251(f)(1)(B). Autotel does not address the fact that it previously initiated and participated in a lengthy interconnection agreement arbitration proceeding before the Commission in Docket No. T-03234A-03-0188. In that proceeding the Commission issued Decision No. 67273 directing Autotel to execute the arbitrated interconnection agreement. Autotel then refused to comply with the Commission's order by executing the interconnection agreement.

As both Commission Staff and Citizens explained in their initial filings, Autotel is not free to ignore the Commission's prior order and attempt to void it by unilaterally initiating interconnection agreement negotiations under the Telecommunications Act. See Staff's Brief in Response to Autotel's Notice of Bona Fide Request and Request for Termination of

1 Exemption at pp. 4-7. The Commission should not allow Autotel to ignore its ruling by
2 initiating a new interconnection agreement proceeding. The Commission should dismiss
3 Autotel's request to terminate Citizens' rural exemption in this proceeding. In addition, the
4 Commission should issue an order making it clear that it will not entertain further
5 interconnection agreement requests, including a request for arbitration with Citizens, until
6 Autotel complies with the Commission's Decision No. 67273.

7 With respect to Issue No. 2, Autotel raises two points. First, it incorrectly suggests
8 Citizens is not a "rural telephone company" as defined in 47 U.S.C. § 153. Second, Autotel
9 argues that the Commission is required to terminate Citizens' "rural telephone company"
10 exemption.

11 The term "rural telephone company" is defined in 47 U.S.C §153 (37) as follows:

12 ***(37) Rural telephone company***

13 *The term "rural telephone company" means a local exchange carrier operating entity*
14 *to the extent that such entity—*

15 *(A) provides common carrier service to any local exchange carrier study area that*
16 *does not include either—*

17 *(i) any incorporated place of 10,000 inhabitants or more, or any part thereof,*
18 *based on the most recently available population statistics of the Bureau of the*
19 *Census; or*

20 *(ii) any territory, incorporated or unincorporated, included in an urbanized*
21 *area, as defined by the Bureau of the Census as of August 10, 1993;*

22 *(B) provides telephone exchange service, including exchange access, to fewer than*
23 *50,000 access lines;*

24 *(C) provides telephone exchange service to any local exchange carrier study area*
25 *with fewer than 100,000 access lines; or*

26 *(D) has less than 15 percent of its access lines in communities of more than 50,000*
27 *on February 8, 1996.*

28 Subdivision (D) indicates that if a local exchange carrier "has less than 15 percent of its
access lines in communities of more than 50,000 on the date of enactment of the
Telecommunications Act of 1996", then that local exchange carrier is a rural telephone

1 company. Citizens did not serve any communities that had a population of more than 50,000
2 on the date of the enactment of the Telecommunications Act of 1996. Kingman, Bullhead
3 City and Lake Havasu, Arizona are the largest communities in Citizens' serving area.
4 According to the US. Census Bureau website: <http://factfinder.census.gov>, the populations in
5 each of these communities in 2000 (the year census data is available) was less than 50,000.
6 Accordingly, Citizens is a rural telephone company under 47 U.S.C § 153 (37)(D).

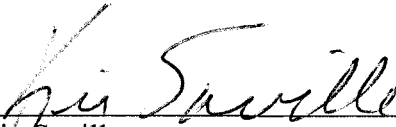
7 Autotel has indicated that it wants to interconnect and exchange traffic with Citizens.
8 Autotel is not seeking unbundled network elements. As Commission Staff and Citizens
9 explained in their initial filings, Citizens has agreed not to raise a rural telephone company
10 exemption claim pursuant to 42 U.S.C. § 251(f)(1) as a basis for not entering into an
11 interconnection agreement to interconnect and exchange traffic with Autotel pursuant to
12 Section 252(c)(2) of the Telecommunications Act. Therefore, even if Autotel were allowed to
13 ignore the Commission's Decision No. 67273 and unilaterally initiate a new interconnection
14 agreement negotiation proceeding, there would not be a need or basis to proceed with any
15 determination regarding Citizens' rural exemption. Accordingly, the Commission should
16 dismiss Autotel's Termination of Exemption Request.

17 **III. CONCLUSION**

18 For the reasons stated above, the Commission should dismiss Autotel's Termination of
19 Exemption Request filed with the Commission on November 21, 2005. In addition, the
20 Commission should issue an order making it clear that it will not entertain further
21 interconnection agreement requests, including a request for arbitration with Citizens, until
22 Autotel complies with the Commission's prior Decision No. 67273.

1 RESPECTFULLY SUBMITTED this 26 day of January 2006.

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